



STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA



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PRESS RELEASE
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"GOT FLOAT? – THINK AGAIN!"

By now, you have probably read or heard about the Check Clearing for the 21st Century Act (Check 21) that was passed by the U.S. Congress and signed into law on October 28, 2003, and becomes effective on October 28, 2004. Check 21 allows institutions to replace paper checks with legal substitute checks that are made from digital images of the originals. Substitute checks will become the legal equivalent of the original checks and include all of the information contained on the original checks. The substitute check can be transferred, presented, or returned just like the original. However, substitute checks must meet certain requirements to qualify as the legal equivalent of the original, and institutions must comply with certain disclosure requirements relative to those customers/members presently receiving original cancelled checks.

The law authorizes the use of technology, but it is not mandated. The law does not require institutions to accept checks in electronic form nor does it require institutions to use the new authority granted by the act to create substitute checks. Check 21 empowers institutions to process original paper checks electronically and, whenever necessary, create substitute checks for delivery to institutions that do not accept checks electronically. However, Check 21 does not require an institution to accept an electronic check image, nor does it give legal equivalence to an electronic check image. Check 21 gives legal equivalence only to a properly prepared substitute check.

Institutions that use substitute checks are likely to realize efficiencies, including expedited collection and return of checks, streamlined check-handling processes, and reduced operating costs. Therefore, these institutions must provide a disclosure to their customers/members. In addition, institutions should alert their customers/members that check processing and turnaround will be reduced from several days to several hours, and that the ability to **“play the float”** will be significantly curtailed.

The Federal Reserve Board (FRB) has released the final rule to implement Check 21, including model disclosure language for depository institutions to use in notifying consumers of their rights under the law. Attached is a list of frequently asked questions, as prepared by the FRB. For additional information on this important issue, please review the FRB’s website at the following address:
<http://www.federalreserve.gov/paymentsystems/truncation/faqs2.htm#ques1>.

The Louisiana Office of Financial Institutions is responsible for the supervision and regulation of state-chartered financial institutions and various other entities that provide financial services to the citizens of the State of Louisiana. Please contact this office at 225/925-4660 or ofila@ofi.state.la.us with any questions and/or problems.

Check Clearing for the 21st Century Act

Frequently Asked Questions about Check 21¹ General

1. What is Check 21 and what is its basic purpose?

Check 21 is a federal law that is designed to enable banks to handle more checks electronically, which should make check processing faster and more efficient. Today, banks often must physically move original paper checks from the bank where the checks are deposited to the bank that pays them. This transportation can be inefficient and costly. Check 21 becomes effective on October 28, 2004.

2. How will Check 21 make check processing more efficient?

Instead of physically moving paper checks from one bank to another, Check 21 will allow banks to process more checks electronically. Banks can capture a picture of the front and back of the check along with the associated payment information and transmit this information electronically. If a receiving bank or its customer requires a paper check, the bank can use the electronic picture and payment information to create a paper “substitute check.” This process enables banks to reduce the cost of physically handling and transporting original paper checks, which can be very expensive.

3. Is electronic check processing secure?

Electronic check processing is not new to the financial industry and is a safe and reliable way of processing payments. It uses technology that has been developed and tested to process your check information securely.

4. What changes can I expect when Check 21 goes into effect?

After October 28, 2004, you may receive a substitute check when you were expecting an original check. For example, if you receive canceled checks with your account statement, you might begin to receive a mixture of canceled original and substitute checks. If you receive image statements (pictures of several checks on a single page), you also may notice that some of the pictures are of substitute checks.

5. Will Check 21 result in my check being paid sooner?

With Check 21, banks will likely process more checks electronically. As a result, your check may reach your bank faster and be paid sooner. Always make sure you have enough money in your account to cover the checks you write at the time that you write them.

6. Will Check 21 affect how quickly I receive funds from the checks that I deposit with my bank?

Another federal check law (Expedited Funds Availability Act) specifies the maximum time periods by which your bank must make funds available to you. Some banks, however, make funds available sooner than this law requires.

¹ The Federal Reserve Board’s website: www.federalreserve.gov

7. What is the difference between Check 21 and programs that convert checks to electronic payments?

A check you write may be processed as a check. In that case, your rights are governed by check laws and regulations. Under electronic check conversion, the check is used only as a source of information to create an electronic fund transfer and is not processed as a check. You must receive notice that your check may be processed this way. Electronic fund transfers are governed by different laws and have different consumer rights than check payments. For more information about electronic check conversion, see the brochure “[When Is Your Check Not a Check: Electronic Check Conversion](#)” published by the Federal Reserve Board.

Substitute Checks

8. What is a substitute check?

A substitute check is a paper copy of the front and back of the original check. A substitute check is slightly larger than a standard personal check so that it can contain a picture of your original check. A substitute check must be printed in accordance with very specific standards so that the substitute check can be used in the same way as the original check.

9. When is a substitute check legally the same as the original check?

A substitute check is legally the same as the original check if it accurately represents the information on the original check and includes the following statement: “This is a legal copy of your check. You can use it the same way you would use the original check.” The substitute check must also have been handled by a bank.

If you receive a substitute check that is not legally the same as the original check and you suffer a loss related to the substitute check, Check 21 provides you with a special procedure that you can use to get your money back.

10. Can I use a substitute check as proof of payment?

Yes. You can use a substitute check as proof of payment because it is legally the same as the original check. For instance, the IRS will accept your substitute check as proof of payment. If you do not have a substitute check but have a copy of an original check or a copy of a substitute check, you usually can use these documents as proof of payment.

11. How are image statements different from substitute checks?

Instead of providing canceled checks, some banks provide customers with image statements that show multiple pictures of canceled checks per page. The pictures on the image statement could represent an original check or a substitute check. Whether the consumer receives an original check, a substitute check, an image statement, or a line item on his or her account statement, check law protects consumers against erroneous and unauthorized check payments. In addition, Check 21 provides a special refund procedure (called “expedited recredit”), if you receive a substitute check. For more information, see the [consumer protection section](#) below or contact your bank.

12. Can I demand a substitute check from my bank instead of a copy?

Your bank may provide you with a substitute check, but it is not required by law to do so. If your bank does not provide you with a substitute check, you usually can use a copy of an original check or a copy of a substitute check as your proof of payment.

13. What should I do if something is wrong with the substitute check that I receive?

A substitute check must show the front and back of the original check and be printed in accordance with very specific standards. If you receive a substitute check that appears to have a problem, such as it contains a bad picture of your original check, contact your bank.

14. Is my bank required to tell me about substitute checks?

Under Check 21, banks are required to provide a disclosure to their consumer customers who receive canceled checks with their monthly statements. The disclosure describes substitute checks and consumer rights regarding substitute checks. Banks must provide this disclosure to existing customers not later than the first statement mailing after Check 21 becomes effective on October 28, 2004. After October 28, 2004, banks must provide this disclosure to new customers at the time the customer relationship is established. If you receive canceled checks with your account statement but did not receive the required disclosure within the timeframes described above, please request one from your bank.

Banks must also provide a disclosure when a consumer requests an original check or copy of a check and receives a substitute check. In addition, the bank must provide a disclosure if a check the consumer has deposited is returned unpaid to the consumer in the form of a substitute check.

Original Checks

15. Can I still get my canceled checks back?

If you get your canceled checks back with your account statements today, you will continue to receive canceled checks unless your bank notifies you otherwise. The only difference will be that some of the canceled checks that you receive may be substitute checks. You can use a substitute check the same way you would use an original check, such as for recordkeeping and proof-of-payment purposes.

16. Can I get my original check if I need it?

Banks are not required currently to keep your original check for any specific length of time, and Check 21 does not add any new retention requirements. In many cases, the original check may be destroyed. If you request your original check from your bank, your bank may provide you with the original check, a substitute check, or a copy of the check.

17. Can banks or their customers prevent others from using their original checks to create substitute checks?

No. Generally, any check can be used to create a substitute check, including a personal check, corporate check, credit card check, postal money order, and U.S. Treasury check. However, a foreign check cannot be used to create a substitute check.

18. What if I receive a substitute check representing a fraudulent original check?

Check law provides protections against fraudulent checks so that generally you are not responsible if you notify the bank in a timely fashion. This is the case whether you receive an original check, a substitute check, an image statement, or a line item on your account statement. If you receive a substitute check of a fraudulent original check, you may have additional rights under Check 21. Contact your bank for more information.

Consumer Protection

19. How am I protected under Check 21?

Check law protects you against erroneous and unauthorized check payments. In addition, Check 21 contains a number of new protections for consumers. For example, Check 21 contains a special refund procedure (called “expedited recredit”) for a consumer who suffers a loss related to a substitute check he or she received.

20. What protections do I have if I receive image statements, access pictures of my checks online, or receive an account statement with descriptive information about my canceled checks?

Years ago, many banks stopped providing customers with canceled checks and, as an alternative, began providing customers with documentation showing which checks were paid. Regardless of the form of documentation you receive, check law protects you against erroneous and unauthorized check payments.

21. If I suffer a loss related to a substitute check I received, can I file a claim with my bank?

Yes. If you have received a substitute check, you can file a special claim with your bank for a refund (called an “expedited recredit”) if you believe that

1. The substitute check was incorrectly charged to your account,
2. You lost money as a result of the substitute check being charged to your account, and
3. You need the original check or a copy sufficient to show that the substitute check was incorrectly charged to your account.

22. Does the special refund procedure apply if I receive an image statement with a picture of a substitute check but do not receive the actual substitute check?

No. The special refund procedure applies only if you actually received a substitute check. However, check law protects you from improper check charges regardless of whether you receive an original check, substitute check, image statement, or a line item on your account statement. If you feel an error was made to your account, contact your bank immediately.

23. How do I make a claim under the Check 21 refund procedure?

If you believe that you have suffered a loss relating to a substitute check that you received, you should contact your bank as soon as possible but no later than 40 days from when your bank mailed or delivered your account statement. Your bank will ask you to provide information it needs to investigate your claim, which could include a description of the problem, an estimate of your loss, and information about the substitute check.

24. How quickly must my bank handle my claim, and when will my account be refunded?

Your bank should investigate your claim promptly. If your bank finds that it incorrectly charged your account, the bank must refund the amount of your claim (up to the amount of the substitute check, plus interest if your account earns interest) within one business day of making that decision.

If your bank is unable to determine the validity of your claim within 10 business days after receiving it, your bank on that day must refund the amount of your loss up to the lesser of amount of the substitute check or \$2,500, plus interest (if your account earns interest). Unless your bank determines that your claim is not valid, it must refund to your account any remaining amount of your loss, up to the amount of the substitute check, plus interest, no later than the 45th calendar day after the bank received your claim.

If your bank later determines that your claim was not valid, it may reverse the refund and interest it has paid to you.

25. How will I know if my bank has refunded my account?

If your bank refunds your account, it will send you a notice by the next business day that tells you the amount of your refund and the date on which you may withdraw those funds. Normally, you may withdraw your refund on the business day after your bank refunds your account.

26. Can my bank delay my ability to withdraw the amount that it refunds?

If your bank is still investigating your claim, it may delay your ability to withdraw up to the first \$2,500 of the refund if (1) you are a new accountholder, (2) your account is repeatedly overdrawn, or (3) the bank has reason to believe the claim is fraudulent. In these cases, your bank must allow you to withdraw the funds after determining that your claim is valid or on the 45th calendar day after the day that you submitted your claim, whichever occurs first.

27. What happens if my bank says it charged my account correctly?

If your bank determines that it correctly charged your account, it will send you a notice by the next business day that explains the reason for that decision and will include either the original check or a copy of the original check that is sufficient to determine the validity of your claim. Your bank will also either include the documentation the bank used in making its determination or will explain that you can request such documentation.